

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 688 OF 2005
WITH
CIVIL APPLICATION NO. 1705 OF 2005

Suhas G. Lotlikar ..Appellant

versus

Suresh G. Lotlikar & Anr. ..Respondents

Mr. S. A. Bhagwat for the Appellant.

Mr. J. M. Chodankar for the Respondent No.1.

Mr. A. M. Vernekar for the Respondent No.2

CORAM : D. G. DESHPANDE, J.

DATE : 8TH JUNE, 2005

P.C. :

1. Heard.

2. Original defendant No.1 has filed this appeal challenging the judgment and decree of the City Civil Court by which the suit for injunction in terms of prayers (a), (b) and (c) of the plaint.

3. Contention that was raised by the counsel for the appellant was that if the plaintiff had claimed injunction on the basis of certain allegations of interference in the property by the

appellant exclusively and to the detriment to the right of the other owners and if the plaintiff has failed to prove those instances, as has been held by the trial court then the plaintiff was not entitled for injunction. In short, according to the appellant if the plaintiff contends that the appellant in collusion with others is dealing with the property to the detriment of the interest of the other owners, then these specific instances must be proved and if they are not proved there cannot be any injunction against him, e.g. it was alleged by the plaintiff, as is clear from Issue No.3, which is the main issue in the suit, that defendant No.2 colluded and connived with the defendant No.1 and attempted to part with possession of the suit flat to third party or was trying to create tenancy rights or licence in favour of stranger and if the plaintiff has failed to prove this specific instance, then he was not entitled for injunction. That is the only submission that was made before me, and therefore according to him the injunction granted by the trial court in terms of prayers (a), (b) and (c) was wrong.

4. The injunction that was asked for by the plaintiff could be also claimed on the basis of mere apprehension which the plaintiff gather from the conduct of the present appellant. Ad interim injunction was continuing from 1989 till the suit

was disposed of. If the contention of the appellant is accepted and injunction is vacated then that will give a licence to him to meddle with the property to the detriment of the interest of the others. There is no merit in this appeal. The same is dismissed along with Civil Application.

8.06.2005

(D.G. DESHPANDE, J.)